IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 64 OF 2005

SHRI OSWALD SILVESTRE GERVASIO COLACO, REPR. BY SHRI JOHN PAUL FERNANDES ....Appellant

Versus

SHRI FILIPE DIAS (SINCE DEC.) THROUGH HIS L.RS AND ANR., ...Respondents

Mr. M. S. Sonak for the appellant.

Mr. A. Rebello for the respondents.

Coram:- SMT. RANJANA DESAI, J.

Date:- 22nd June, 2006

P.C.:-

1. In this appeal, the original plaintiff has challenged the order dated 4/8/2005 passed by the Civil Judge, Senior Division, Panaji, Goa, whereby the plaintiff's application for interim relief was rejected.

2. I have heard Mr. Sonak, the learned counsel appearing for the appellant and Mr. Rebello, the learned counsel appearing for the respondents. Mr. Sonak contended that the impugned order is perverse and deserves to be set aside.

3. I am informed that the suit is already posted for final hearing. The next date of hearing is 31/8/2006. In view of the fact that the trial court will now finally decide the suit, in my opinion, it is not appropriate to go into the merits of the case. Looking to the nature of the dispute, it will be only proper to direct the trial court to dispose of the suit in a time frame. Mr. Sonak says that the date of hearing needs to be preponed. In that case, the parties will be at liberty to approach the trial court for an

appropriate order. In the circumstances of the case, I pass the following order:

O R D E R

4. Special Civil Suit No.113/03/B is expedited. The trial court is directed to hear and dispose of the same within a period of six months from the date of receipt of this order by it. Liberty to the parties to appear before the trial court on 30/6/2006 to apply for preponing the date of hearing. If such an application is made, the trial court shall consider it sympathetically. The learned counsel for the respondents says that during the pendency of the suit, the respondents shall not sell the suit property or alienate, encumber or create any third party rights in the suit property or change the status of the suit property or any part thereof.

5. It is clarified that though this court has not interfered with the impugned order, it may not be construed to mean that this court has considered the merits of the case. All contentions of both sides are kept open.

6. Appeal from order is disposed of in the aforestated terms. In view of the above, Civil Application No.331 of 2005 does not survive and is disposed of as such.

SMT. RANJANA DESAI, J.

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